CERTIFICATION OF ADMINISTRATIVE RULES
OF THE DEPARTMENT OF REVENUE
FILED WITH THE SECRETARY OF STATE
BRIAN KEMP

(Pursuant to O.C.G.A. §§ 50-13-3, 50-13-4 and 50-13-6.)

I do hereby certify that the attached Emergency Rule is a correct copy as promulgated and adopted on the 27th day of October, 2010.

Filing Date: October 27, 2010.

The Georgia Department of Revenue has adopted Emergency Rule
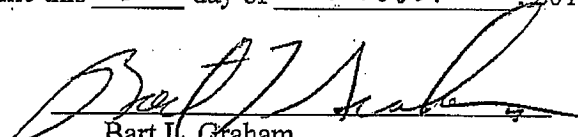
- 560-12-1-0.20-.37

The effective date of this Rule shall be October 27, 2010. This Rule will remain in effect for 120 days or until the Department proposes and adopts a subsequent Rule, whichever occurs earlier.

Emergency Rule 560-12-1-0.20-.37 is being adopted under the authority of O.C.G.A. §§ 48-8-2, 48-8-3, 48-8-6, 48-8-30, 48-8-50, 48-8-58, 48-8-59, 48-8-68 through 48-8-77 and 48-8-61.

The adoption of the aforementioned Emergency Rule by the Department is necessary in order to provide guidance with respect to certain requirements in the Streamlined Sales and Use Tax Agreement.

Sworn to and subscribed before me this 27th day of October, 2010.

_____   _____
(Notary Public Seal)   Bart L. Graham
                                         Commissioner
                                         Georgia Department of Revenue

Notary Public, Rockdale County, Georgia
My Commission Expires Nov. 19, 2012

**RULES
OF
DEPARTMENT OF REVENUE
SALES AND USE TAX DIVISION**

**CHAPTER 560-12-1
ADMINISTRATIVE RULES AND REGULATIONS**

**560-12-1-0.20-.37 Streamlined Sales Tax Agreement –
Administration; Streamlined Exemption Certificate; Nexus; Tax
Rate Database.**

(1) **Definitions.** For the purposes of this Rule, the following
definitions shall apply:

(a) "Agreement" means the multistate Streamlined Sales and Use
Tax Agreement, as amended.

(b) "Certified Automated System" means software certified jointly
by the states that are signatories to the Agreement that calculates the
tax imposed by each jurisdiction on a transaction, determines the
amount of tax to remit to the appropriate state, and maintains a record
of the transaction.

(c) "CSP" means a "Certified Service Provider" who is an agent
certified jointly by the states that are signatories to the Agreement to
perform all of the seller's sales tax functions.

(2) **Departmental Certification of Automated System Software.**

(a) The Department will review software submitted to the
Streamlined Sales Tax Governing Board for approval as a Certified
Automated System under Section 501 of the Agreement.

1. Such review will determine whether the software accurately
reflects the taxability of the product categories.

2. Upon approval, the Department will certify its acceptance of the software to the Streamlined Sales Tax Governing Board.

(3) CSP and Model 2 Seller Relief.

(a) The Department will relieve CSPs and model 2 sellers from liability to the State and to local jurisdictions in the State for not collecting sales or use taxes resulting from the CSP or model 2 seller relying on the certification provided by the State.

(b) If the Department determines that an item or transaction is incorrectly classified as to the item or transaction's taxability, the Department will notify the CSPs and model 2 sellers of the incorrect classification. CSPs and model 2 sellers shall have ten (10) days to revise the classification after receipt of notice of the correction from the Department before the Department will hold CSPs or model 2 sellers liable for collection of the tax.

(c) The Department will provide such relief from liability for not collecting sales and use taxes in the same manner as provided to sellers under Paragraph (4), below.

(4) Administration of Exemptions.

(a) A seller shall use the standard form for claiming an exemption electronically as adopted by the Streamlined Sales Tax Governing Board.

(b) A seller shall obtain the same information for proof of a claimed exemption regardless of the medium in which the transaction occurred.

(c) The Department will relieve a seller of the tax otherwise applicable if the seller obtains a fully completed exemption certificate approved by the Department, the Streamlined Sales Tax Governing Board, or the Multistate Tax Commission, or if the seller captures the relevant data elements required under the Agreement within ninety days after the date of sale.

(d) If the seller has not met any of the requirements for relief in Subparagraph (c), above, the seller shall have 120 days from the date of a subsequent Departmental request for proof of claimed exemption to either:

1. Obtain a fully-completed exemption certificate from the purchaser that claims an exemption that:

(i) Was statutorily available on the date of the transaction in the jurisdiction where the transaction is sourced;
(ii) Could be applicable to the item being purchased; and
(iii) Is reasonable for the purchaser's type of business; or

2. Obtain other information establishing that the transaction was not subject to the tax.

(e) The Department relieves a seller of the tax otherwise applicable if the seller obtains a blanket exemption certificate from a purchaser with which the seller has a recurring business relationship.

(5) Registration Not Used in a Nexus Determination. If the State withdraws or is expelled from the Agreement, the State will not use the seller's registration with the central registration system and collection of taxes in member states in determining whether the seller has nexus with the State for any tax at any time.

(6) Tax Rate Database. The Department will provide and maintain a database that assigns each five and nine digit zip code within the state to the proper tax rate and jurisdiction. If an area within a five or nine digit zip code includes more than one tax rate, the Department will apply the lowest combined tax rate imposed in that zip code area.

Authority: O.C.G.A. §§ 48-2-12, 48-8-2, 48-8-3, 48-8-6, 48-8-30, 48-8-50, 48-8-58, 48-8-59, 48-8-61, 48-8-68 through 48-8-77.